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8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4201

11 **KAREN DENISE HARTSON**
12 **9003 Bridge Leigh Way**
Bakersfield, CA 93312
13 **Pharmacist License No. RPH 45399**

A C C U S A T I O N

14 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about August 10, 1992, the Board of Pharmacy issued Pharmacist License
22 Number RPH 45399 to Karen Denise Hartson (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on May 31,
24 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

1 "(l) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
6 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
7 The board may inquire into the circumstances surrounding the commission of the crime, in order
8 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
9 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
10 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
11 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
12 of this provision. The board may take action when the time for appeal has elapsed, or the
13 judgment of conviction has been affirmed on appeal or when an order granting probation is made
14 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
15 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
16 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
17 indictment.

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19 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
20 violation of or conspiring to violate any provision or term of this chapter or of the applicable
21 federal and state laws and regulations governing pharmacy, including regulations established by
22 the board or by any other state or federal regulatory agency."

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1 8. Section 4060 states, in pertinent part:

2 "No person shall possess any controlled substance, except that furnished
3 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
6 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
7 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
8 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
 shall not apply to the possession of any controlled substance by a manufacturer,
 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
 physician assistant, when in stock in containers correctly labeled with the name and
 address of the supplier or producer."

9 9. Health and Safety Code section 11350, subdivision (a), states:

10 "(a) Except as otherwise provided in this division, every person who possesses (1)
11 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
12 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
13 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
14 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
 practice in this state, shall be punished by imprisonment in the state prison."

15 10. Health and Safety Code section 11375, subdivision (b)(2), states:

16 "Every person who possesses any controlled substance specified in subdivision (c), unless
17 upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this
18 state, shall be guilty of an infraction or a misdemeanor."

19 **REGULATORY PROVISIONS**

20 11. California Code of Regulations, title 16, section 1770, states, in pertinent part:

21 "For the purpose of denial, suspension, or revocation of a personal or facility license
22 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
23 crime or act shall be considered substantially related to the qualifications, functions or duties of a
24 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
25 licensee or registrant to perform the functions authorized by his license or registration in a manner
26 consistent with the public health, safety, or welfare."

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1 **COST RECOVERY**

2 12.. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licensee found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 **CONTROLLED SUBSTANCES**

7 13. "Tylenol/Codeine," or "Codeine and Acetaminophen," is a Schedule III controlled
8 substance as defined in Health and Safety Code section 11056(e)(2) and is categorized as a
9 dangerous drug pursuant to section 4022.

10 14. "Alprazolam," is a Schedule IV controlled substance as defined in Health and Safety
11 Code section 11057(d)(1) and is categorized as a dangerous drug pursuant to section 4022.

12 15. "Valium" or "Diazepam," is a Schedule IV controlled substance as defined in Health
13 and Safety Code section 11057(d)(9) and is categorized as a dangerous drug pursuant to section
14 4022.

15 16. "Norco-Vicodin," or "Hydrocodone/Acetaminophen," is a Schedule III controlled
16 substance as defined in Health and Safety Code section 11056(e)(4) and is categorized as a
17 dangerous drug pursuant to section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of a Substantially Related Crime)**

20 17. Respondent is subject to disciplinary action under sections 4301, subdivision (l), and
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that on or about
22 June 23, 2011, after pleading nolo contendere, Respondent was convicted of one misdemeanor
23 count of violating Health and Safety Code section 11375, subdivision (b)(2) [possession of a
24 controlled substance], in the criminal proceeding entitled *The People of California v. Karen*
25 *Denise Hartson* (Super. Ct. Kern County, 2011, No. SF016211A). Respondent was placed on
26 probation for a period of 3 years with certain terms and conditions and ordered to pay fines and
27 fees totaling \$498.00. The circumstances surrounding the conviction are that on or about October
28

1 6, 2010 and November 5, 2010, Respondent possessed Alprazolam and Diazepam, respectively,
2 while working as a pharmacist inside Wasco State Prison and without proper authorization.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unlawful Possession of Controlled Substances)**

5 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
6 (o), in that Respondent was found to be in possession of a controlled substance in violation of
7 Code section 4060 and Health and Safety Code section 11350, subdivision (a), as well as Health
8 and Safety Code section 11375, subdivision (b)(2). The circumstances are that from in or about
9 June of 2010 to in or about November of 2010, Respondent stole multiple and various types of
10 controlled substances from Wasco State Prison including hydrocodone-containing medications,
11 codeine containing medications, alprazolam, and diazepam. These medications included drugs
12 which belonged to prisoners incarcerated in the facility and Respondent performed these acts
13 while working as a pharmacist at Wasco State Prison. Respondent was in possession of the stolen
14 controlled substances without a prescription for those medications and narcotics. Complainant
15 hereby incorporates the allegations contained in paragraph 17, above, as though set forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Corrupt Acts - Stealing Controlled Substance Medications)**

18 19. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
19 that she engaged in unprofessional conduct by conducting acts involving moral turpitude,
20 dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates the allegations
21 contained in paragraphs 17 and 18, above, as though set forth fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unlawful Self-Administration of Controlled Substances)**

24 20. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
25 that she illegally self-administered the controlled substances hydrocodone, alprazolam, and
26 diazepam.

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1 **AGGRAVATING FACTORS**

2 21. On or about December 6, 2011, Respondent was terminated from the Maximus
3 Diversion Program as a Public Safety Risk. From on or about November 23, 2011 to December
4 5, 2011, Respondent failed to comply with the program's daily calling in requirement. As a
5 consequence of not calling in daily, Respondent missed two Random Drug Screens. Based on
6 Respondent's history of diverting from the workplace and her decision not to continue complying
7 with the terms of her recovery contract with Maximus, the Pharmacist Recovery Committee
8 unanimously decided that Respondent be closed as a public risk.

9 **DISCIPLINARY CONSIDERATIONS**

10 22. On or about March 20, 2003, the Board filed Accusation No. 2589 against
11 Respondent alleging that in 2002, she fraudulently appropriated Norco from her employer,
12 unlawfully self-administered controlled substances, unlawfully possessed controlled substances,
13 and violated the law regulating controlled substances. On or about October 22, 2003, a stipulated
14 settlement became effective in Case No. 2589 which placed Respondent's Original Pharmacist
15 License No. 45399 on probation for six (6) years on certain terms and conditions.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Pharmacy issue a decision:

- 19 1. Revoking or suspending Pharmacist License Number RPH 45399, issued to Karen
20 Denise Hartson;
- 21 2. Ordering Karen Denise Hartson to pay the Board of Pharmacy the reasonable costs of
22 the investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3; and

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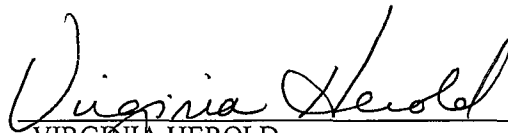
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3. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/9/12



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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